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January 27, 1997

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Office of the Secretary
Federal Communications Commission
1919 M Street, NW
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Mass Media Docket No. 87-268
Ex Parte

Dear Mr. Secretary,

On the afternoon of Friday, January 24, Andrew Blau and Kevin Taglang of the Benton Foundation, Mark Lloyd of the National Institute for Media and Family, John Anthony Butler of the National Urban League, Edwin Davis and Celia Viggo Wexler of Common Cause, Robert Loeb of Telecommunications Cooperative Network, and Janet Poley of A*DEC attended meetings with Commissioners Chong and Ness, Mass Media Bureau Chief Roy Stewart, Julius Genachowski, Jane E. Mago, Marsha J. McBride, David R. Siddall, Anita L. Wallgren, Douglas W. Webbink, Gretchen Rubin, Bruce Romano, Judith Herman, and Roger Holberg to discuss advanced television systems and their impact on existing television broadcast service. On behalf of the attendees noted above, Benton is filing an original and one copy of this letter to the Secretary as well as a copy to all Commissioners and staff included in the meetings (see attached service list). Benton regrets not completing this ex parte filing on the day of the meetings, but the last visit was not concluded before the close of business.

The group voiced concern about the public interest obligations that will be attached to licenses to operate digital television broadcast outlets. The higher education community, civil rights community, nonprofit sector and children's organizations all have public interest issues that they want addressed in any new spectrum deal.

Benton has filed formal comments in the 4th, 5th, and 6th Notice of Proposed Rulemakings ("NPRM") in this proceeding. A*DEC has filed informal reply comments in the 6th NPRM.

In each of the meetings, Andrew Blau made the following comments:

The transition to digital television is not only about economic viability of broadcasters. It is also

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about public interest in the digital age. Benton feels that there is growing concern among a number of public interest constituencies around this issue, but the voices the Commission has been hearing from most are industry and traditional telecommunication players.

Dr. Janet Poley presented these concerns:

The higher education community is just becoming aware of this issue. At first, it appears to be only a technical issue, but we are becoming increasingly aware of the economic and educational opportunities this transition offers. Educational programmers need to be able to find "shelf space" on systems. Quantifying public interest obligations can help encourage commercial broadcasters to reach out to educators for programming. Commercial satellite operators have recently reached out to A*DEC as a result of possible requirements to set aside 4-7% of their systems for public interest use. These set asides are withstanding court challenges even though these providers have paid for the spectrum they use.

John Anthony Butler presented the concerns of the National Urban League:

The National Urban League has two major concerns about the transition to digital television. First, on the consumer side, there is a concern that the most attractive business models will move the best programming off free, over-the-air broadcasting and on to a subscription and/or pay-per-view basis. Such models could widen the gap of available programming between high- and low-income households. Second, on the programming side, Mr. Butler notes concerns that the transition may risk the long standing national priority to promote a diversity of voices in broadcasting. Few broadcast outlets have minority ownership. How does the push for better pictures and sound compare as a priority?

Bob Loeb made the following comments:

The Telecommunications Cooperative Network (TCN) is concerned with questions of access to video delivery systems for nonprofit organizations. TCN notes the problems of access on cable systems where regulatory gains were won only to see that nonprofits could not compete with larger commercial interests for access to stations. One of the biggest barriers was access to programming-creation facilities: nonprofits do not have sufficient resources to maintain their own.

TCN suggests that the Commission consider regulatory incentives for commercial broadcasters to enter into innovative partnerships with nonprofits for the creation of public interest programming.

Could, for example, the Commission waive the fees outlined in section 336(e) of the Telecommunications Act of 1996 for broadcasters that entered into partnerships with nonprofit organizations to create and air public interest programming?

Mark Lloyd represented the concerns of the National Institute for Media and Family and the Center for Strategic Communications. (Mr. Lloyd is also Counsel for the Benton Foundation).

The public interest obligations of broadcasters have been diminishing to the point that they hardly exist at this time. There is a difference between "flexibility" and no guidance at all. As a former broadcaster, Mr. Lloyd noted that stations were once asked to consult with the communities they serve and to ascertain what they needs of the populous were. The broadcaster was then responsible for airing programming that met these needs. That ascertainment process no longer exists and there is no way to prove that broadcasters are engaged in a dialogue with their communities.

The National Institute for Media and Family and the Center for Strategic Communications support the comments filed by the Benton Foundation asking for a separate proceeding NPRM in this proceeding to clarify the public interest obligations of broadcasters to fulfill their role as "public trustees" of the airwaves. Such a proceeding would allow the public an opportunity to define what "in the public interest" means in the digital age.

Ed Davis and Celia Wexler represented Common Cause:

Common Cause is concerned with not only the continued availability of free, over-the-air broadcasting, but with free access to political communication as well. Common Cause is a leading proponent of the McCain-Feingold Campaign Finance Reform Bill, legislation supported by the Clinton Administration as well. The bill includes language guaranteeing free, political ads for candidates that voluntarily limit their campaign spending.

Common Cause – along with Henry Geller, the Benton Foundation, Center for Responsive Politics, and others – has filed a petition for inquiry or rulemaking to require free time for political broadcasts. The petition was filed as an appendix in Benton's filings in this proceeding.

Respectfully submitted,




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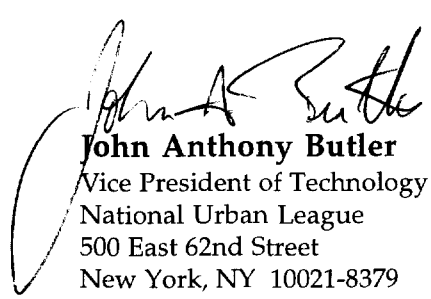
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Service List

I, Kevin Taglang, certify that the following FCC staff were served with this ex parte filing in Mass Media Docket #87-268 via messenger:

In Chairman Reed Hundt's Office:

Julius Genachowski Chief Counsel Federal Communications Commission 1919 M Street, N.W., Room 814 Washington, D.C. 20554 (meeting via phone) 418-1000
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In Commissioner Chong's office:

The Honorable Rachelle B. Chong, Commissioner Federal Communications Commission 1919 M Street, N.W., Room 844 Washington, D.C. 20554	Jane E. Mago Senior Legal Advisor Federal Communications Commission 1919 M Street, N.W., Room 844 Washington, D.C. 20554
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In Commissioner Quello's office:

Marsha J McBride Senior Legal Advisor Federal Communications Commission 1919 M Street, N.W., Room 802 Washington, D.C. 20554
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In Commissioner Ness's office:

The Honorable Susan Ness, Commissioner Federal Communications Commission 1919 M Street, N.W., Room 832 Washington, D.C. 20554	David R. Siddall Legal Advisor Federal Communications Commission 1919 M Street, N.W., Room 832 Washington, D.C. 20554	Anita L. Wallgren Legal Advisor Federal Communications Commission 1919 M Street, N.W., Room 832 Washington, D.C. 20554
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In Mass Media Bureau Chief Roy Stewart's office:

Roy Stewart Chief, Mass Media Bureau Federal Communications Commission 1919 M Street, N.W., Room 314 Washington, D.C. 20554	Douglas W. Webbink Chief, Policy and Rules Division Federal Communications Commission 1919 M Street, N.W., Room 545 Washington, D.C. 20554	Gretchen Rubin Special Advisor Federal Communications Commission 1919 M Street, N.W., Room 544 Washington, D.C. 20554
Bruce Romano Deputy Chief, Policy and Rules Division Federal Communications Commission 1919 M Street, N.W., Room 546 Washington, D.C. 20554	Judith Herman Chief, Policy and Industry Analysis Branch Policy and Rules Division Federal Communications Commission 1919 M Street, N.W., Room 545 Washington, D.C. 20554	Roger Holberg, Senior Attorney in the Legal Branch, Policy and Rules Division, Mass Media Bureau, FCC Room 550 2000 M St., NW, Washington, DC 20554

Biographies of participants

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Andrew Blau directs the Benton Foundation's program in Communications Policy, which strengthens public interest efforts to shape the emerging communications environment through public education, outreach to nonprofit and community groups, and policy development. He was the principal organizer of the Public Interest Summit, the first national meeting that brought together leaders from nonprofits, foundations, and the Clinton Administration to discuss public interest policies in communications. Before joining Benton, Mr. Blau worked with such public interest groups as the Electronic Frontier Foundation, the Alliance for Community Media, and the United Church of Christ on a range of issues including Internet policy, the break up of the Bell system, public television, broadcast licensing, and cable regulation. He has testified before the Senate Commerce Committee about the role of nonprofits in the information age, serves on the Executive Committee of the Urban Libraries Council and is an advisor to Microsoft's "Libraries Online!" initiative to bring networked computers to public libraries.

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Mr. Butler is currently, Vice President of Technology with the National Urban League Inc., the 85 year old social service and advocacy organization that represents 114 affiliated community based organizations in 35 states. He is charged with shaping Urban League policy, programs, and infrastructure relative to access and National Information Infrastructure as well as focusing on emerging policy issues and upgrading the computing and communication systems for both the National Urban League headquarters and local affiliates. His career roles have included operations, financial and technology senior manager in municipal government and non-profit organizations; financial and news information services strategist and marketer in Latin America and Caribbean; information systems specialist in investment banking; and media specialist in higher education. Butler has a B.A. from Harvard University, 1980 and an M.B.A. from Stanford University, 1987. He is married and has one daughter. Butler was born in Cleveland, Ohio, raised in Brooklyn, NY, and is a resident of Teaneck, NJ.

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Edwin Davis has been the lobbyist and policy analyst at Common Cause since 1987. Prior to that he worked for twelve years in the U.S. House of Representatives for two Representatives from San Francisco, California and as a legislative analyst for the Democratic Study Group.

Mark Lloyd

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Mark Lloyd is both on the board at the Benton Foundation as the General Counsel and on the board of the National Institute for Media and Family. In addition, he is Chair of the Board for the Center for Strategic Communications. Before he stepped on as the Benton Foundation's General Counsel, Mark was a communications attorney with the law firm Dow, Lohnes, & Albertson. Mark has worked in broadcast journalism as a reporter and producer at local radio and television stations in Michigan, Ohio, and Washington, DC, and at CNN's Washington Bureau. Mark was also the Director of Electronic Programs at the Joint Center for Political and Economic Studies, where he produced radio and television documentaries and teleconferences in conjunction with the Smithsonian Institution, WETA, and others. Mark is the recipient of an EMMY, a CINE Golden Eagle, and a variety of other awards for his work in broadcasting.

Mark has written nationally published articles on a variety of issues, including communications policy and affirmative action. He is a graduate of the University of Michigan and the Georgetown University Law Center.

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Telecommunications Cooperative Network (TCN) was established in 1980 to help charitable organizations reduce their telecommunications costs and improve their programmatic use of advanced communications technologies. Loeb speaks and writes extensively on the impact of new communications

technologies on the charitable sector. He is Co-Founder and Board member of the Center for Strategic Communications, member of the Board of the Communications Consortium, and member of the Technology Committee of the American Society of Association Executives. Loeb holds a Bachelor's degree in Public Affairs and a Master's degree in Business Policy. He has a wife and teenage daughter and enjoys scuba diving and sailing much more than computers.

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Dr. Poley assumed her current position as President and CEO of A*DEC at the end of February 1994. In March she was named one of the 100 outstanding technology leaders in government, business and academia by Federal Computer Week.

From August of 1988 until her current position she was Director/Deputy Administrator for Communication, Information and Technology (CIT) of Extension Service, U.S. Department of Agriculture. During this period she received numerous awards including the Administrator's Award of Excellence and the Secretary of Agriculture's Award for Diversity.

From 1976 to 1988 she held a number of positions in the area of international development and training within USDA. She served as Coordinator of the Development Program Management Center, Chief of Party for the Training for Rural Development Projects for six years in Tanzania, and Assistant Deputy Director for International Training. She received the Excalibur Award from the U.S. Congress in 1983 for her work in Tanzania. She has been involved in training, technical assistance, program design and evaluation in more than 20 countries in Asia, Africa, and Europe. She was a member of the first USDA Extension team sent to Poland to explore establishing an Extension Service there and wrote the paper funded by USAID.

From 1966 to 1975 she was a faculty member at the University of Nebraska-Lincoln in the Department of Agricultural Communications. She is a native of Nebraska and holds a B.S. with a double major in Home Economics and Journalism; and M.S. in Nutrition and a Ph.D. in Adult and Continuing Education from the University of Nebraska-Lincoln.

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Kevin Taglang is part of the program team on Benton's Communications Policy Project. Mr. Taglang authors Benton's filings at the FCC, summaries of proceedings at the Commission, and briefings on telecommunications legislation. Mr. Taglang is particularly interested in universal service, spectrum

allocation and the transition to digital television, and the equitable deployment of advanced telecommunications services. Before joining Benton, Mr. Taglang worked at the Information Technology Resource Center in Chicago, Illinois. In a TIIAP-funded position at ITRC, Mr. Taglang worked to connect low-income neighborhood organizations to the Internet. Mr. Taglang has also worked as an administrator at the School of Social Service Administration at the University of Chicago. Kevin studied Telecommunications Science, Management and Policy at Northwestern University and English at the University of Chicago.

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Celia Viggo Wexler is a policy analyst and lobbyist for Common Cause. A former business journalist, she's working on a Common Cause paper on the auction of the broadcast spectrum, the first in a series of papers on corporate welfare.